

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matters of:)
)
THANE-COAT, INC.)
12725 Royal Drive)
Stafford, Texas 77477,)
)
JERRY VERNON FORD)
President)
Thane-Coat, Inc.)
12725 Royal Drive)
Stafford, Texas 77477)
)
and with an address at)
)
7707 Augustine Drive)
Houston, Texas 77036,)
)
and)
)
PRESTON JOHN ENGBRETSON)
Vice-President)
Thane-Coat, Inc.)
12725 Royal Drive)
Stafford, Texas 77477)
)
and with an address at)
)
8903 Bonhomme Road)
Houston, Texas 77074,)
)
Respondents)
)
_____)

DECISION AND ORDER ON RENEWAL OF TEMPORARY DENIAL ORDER

On October 13, 1999, I issued a Decision and Order on Renewal of Temporary Denial Order (hereinafter "Order" or "TDO), renewing for 180 days, in a "non-standard" format, a May

5, 1997 Order naming, inter alia, Thane-Coat, Inc.; Jerry Vernon Ford, president, Thane-Coat, Inc.; and Preston John Engebretson, vice-president, Thane-Coat, Inc. (hereinafter referred to collectively as the "Respondents"), as persons temporarily denied all U.S. export privileges. 64 *Fed. Reg.* 56483-56485 (October 30, 1999). Unless renewed, the Order will expire on April 10, 2000.

On March 20, 2000, pursuant to Section 766.24 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (hereinafter the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (hereinafter the "Act"),¹ the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), requested that I renew the Order against Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson for 180 days in a non-standard format, consistent with the terms agreed to by and between the parties in April 1998.

In its request, BXA stated that, as a result of an ongoing investigation, it had reason to believe that, during the period from approximately June 1994 through approximately July 1996, Thane-Coat, Inc., through Ford and Engebretson, and using its affiliated companies, TIC Ltd. and Export Materials, Inc., made approximately 100 shipments of U.S.-origin pipe coating materials, machines, and parts to the Dong Ah Consortium in Benghazi, Libya. These items were for use in

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)), and August 10, 1999 (64 *Fed. Reg.* 44101, August 13, 1999), continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1999)).

coating the internal surface of prestressed concrete cylinder pipe for the Government of Libya's Great Man-Made River Project.² Moreover, BXA's investigation gave it reason to believe that the Respondents and the affiliated companies employed a scheme to export U.S.-origin products from the United States, through the United Kingdom, to Libya, a country subject to a comprehensive economic sanctions program, without the authorizations required under U.S. law, including the Regulations. The approximate value of the 100 shipments at issue was \$35 million. In addition, the Respondents and the affiliated companies undertook several significant and affirmative actions in connection with the solicitation of business on another phase of the Great Man-Made River Project.

BXA has stated that it believes that the matters under investigation and the information obtained to date in that investigation support renewal of the TDO issued against the Respondents. In that regard, in April 1998, BXA and the Respondents reached an agreement, whereby BXA sought a renewal of the TDO in a "non-standard" format, denying all of the Respondents' U.S. export privileges to the United Kingdom, the Bahamas, Libya, Cuba, Iraq, North Korea, Iran, and any other country or countries that may be made subject in the future to a general trade embargo by proper legal authority. In return, the Respondents agreed that, among other conditions, at least 14 days in advance of any export that any of the Respondents intends to make of any item from the United States to any destination world-wide, the Respondents will provide to BXA's Dallas Field Office (i) notice of the intended export, (ii) copies of all documents reasonably related

² BXA understands that the ultimate goal of this project is to bring fresh water from wells drilled in southeast and southwest Libya through prestressed concrete cylinder pipe to the coastal cities of Libya. This multibillion dollar, multiphase engineering endeavor is being performed by the Dong Ah Construction Company of Seoul, South Korea.

to the subject transaction, including, but not limited to, the commercial invoice and bill of lading, and (iii) the opportunity, during the 14-day notice period, to inspect physically the item at issue to ensure that the intended shipment is in compliance with the Export Administration Act, the Export Administration Regulations, or any order issued thereunder. BXA has sought renewal of the TDO in a "non-standard" format; respondents have not opposed renewal of the TDO in the "non-standard" format.

Based on BXA's showing, I find that it is appropriate to renew the order temporarily denying the export privileges of Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson in a "non-standard" format, incorporating the terms agreed to by and between the parties in April 1998. I find that such renewal is necessary in the public interest to prevent an imminent violation of the Regulations and to give notice to companies in the United States and abroad to cease dealing with these persons in any commodity, software, or technology subject to the Regulations and exported or to be exported to the United Kingdom, the Bahamas, Libya, Cuba, Iraq, North Korea, Iran, and any other country or countries that may be made subject in the future to a general trade embargo by proper legal authority, or in any other activity subject to the Regulations with respect to these specific countries. Moreover, I find such renewal is in the public interest in order to reduce the substantial likelihood that Thane-Coat, Inc., Ford and Engebretson will engage in activities which are in violation of the Regulations.

ACCORDINGLY, IT IS THEREFORE ORDERED:

FIRST, that Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477, and all of its successors or assigns, officers, representatives, agents, and employees when acting on its behalf; Jerry Vernon Ford, President, Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477, and

7707 Augustine Drive, Houston, Texas 77036, and all of his successors, or assigns, representatives, agents and employees when acting on his behalf; and Preston John Engebretson, Vice-President, Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477 and 8903 Bonhomme Road, Houston, Texas 77074, and all of his successors, or assigns, representatives, agents, and employees when acting on his behalf (all of the foregoing parties hereinafter collectively referred to as the "denied persons"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") subject to the Export Administration Regulations (hereinafter the "Regulations") and exported or to be exported from the United States to the United Kingdom, the Bahamas, Libya, Cuba, Iraq, North Korea, or Iran, or to any other country or countries that may be made subject in the future to a general trade embargo pursuant to proper legal authority (hereinafter the "Covered Countries"), or in any other activity subject to the Regulations with respect to the Covered Countries, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item that is subject to the Regulations and that is exported or to be exported from the United States to any of the Covered Countries, or in any other activity subject to the Regulations; or
- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States to any of the Covered Countries that is subject to

the Regulations, or in any other activity subject to the Regulations.

SECOND, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of any of the denied persons any item subject to the Regulations to any of the Covered Countries;
- B. Take any action that facilitates the acquisition, or attempted acquisition by any of the denied persons of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States to any of the Covered Countries, including financing or other support activities related to a transaction whereby any of the denied persons acquires or attempts to acquire such ownership, possession or control;
- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from any of the denied persons of any item subject to the Regulations that has been exported from the United States to any of the Covered Countries;
- D. Obtain from any of the denied persons in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States to any of the Covered Countries; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States to any of the Covered Countries, and which is owned, possessed or controlled by any of the denied persons, or service any item, of whatever origin, that is owned, possessed or controlled by any of the denied persons if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States to any of the

Covered Countries. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

THIRD, that, at least 14 days in advance of any export that any of the denied persons intends to make of any item from the United States to any destination world-wide, the denied person will provide to BXA's Dallas Field Office (i) notice of the intended export, (ii) copies of all documents reasonably related to the subject transaction, including, but not limited to, the commercial invoice and bill of lading, and (iii) the opportunity, during the 14-day notice period, to inspect physically the item at issue to ensure that the intended shipment is in compliance with the Export Administration Act, the Export Administration Regulations, or any order issued thereunder.

FOURTH, that, after notice and opportunity for comment, as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to any of the denied persons by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services, may also be made subject to the provisions of this Order.

FIFTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.


SIXTH, that, in accordance with the provisions of Section 766.24(e) of the Regulations, Thane-Coat, Ford, or Engebretson may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

SEVENTH, that this Order is effective immediately and shall remain in effect for 180

days.

EIGHTH, that, in accordance with the provisions of Section 766.24(d) of the Regulations, BXA may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose a request to renew this Order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be served on each Respondent and shall be published in the *Federal Register*.



E. Amanda DeBusk
Assistant Secretary
for Export Enforcement

Entered this 10th day of April, 2000.